

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG**

MARKS CONSTRUCTION CO., INC.

a West Virginia Corporation, on behalf
of the Marks Construction Co., Inc. 401(k)
Profit Sharing Plan
and

**JAMES MARKS, KAREN MARKS,
ANGELA DAVIS, and RICHARD STRAIGHT,**
all individual participants thereunder,

Plaintiffs,

v.

Civil Action No. 1:05CV73
(Judge Frederick P. Stamp, Jr.)

**THE HUNTINGTON NATIONAL BANK and
SHARON HUGHES,**

Defendants.

NOTICE OF ERRATA

Plaintiffs, Marks Construction Company, Inc., on behalf of the Marks Construction 401(k) Profit Sharing Plan, as amended, and James Marks, Karen Marks, Angela Davis, and Richard Straight, individual participants thereunder (hereinafter, collectively, with Marks Construction, the “Plaintiffs”), by counsel Michael J. Romano and Joseph A. Garofolo, hereby file this Notice of Errata relating to the Memorandum in Support of Plaintiffs’ Petition for Attorneys’ Fees and Expenses Pursuant to ERISA § 502(g) (“Memorandum”) (Doc 215).

Plaintiffs inadvertently claimed attorneys’ fees for 2.4 hours of work performed on September 22, 2009 by Benjamin P. Quest for a total of \$480.00 which should not have been claimed under the terms of the Rule 68 Offer of Judgment. Therefore, Plaintiffs correct the

following pages of the Memorandum:

1. The first paragraph of page 24 should read:

Those records reflect that Mr. Romano has worked 1,110.90 hours on this matter (including 15 hours of anticipated time for matters relating to the reply), Mr. Garofolo has worked 434.20 hours (including 15 hours of anticipated time for matters relating to the reply, but less 8.4 hours on September 22, 2009), Mr. Doyle has worked 48.2 hours, and Mr. Quest has worked 190.2 hours (reflecting a reduction of 2.4 hours on September 22, 2009).

2. The Conclusion on page 25 should read:

For the foregoing reasons, Plaintiffs' Petition for Attorneys' Fees and Expenses Pursuant to ERISA §502(g) should be granted and Plaintiffs request that they be awarded reasonable attorneys' fees and costs incurred herein, as follows:

Michael J. Romano:	1,110.9 hours at \$350/hour	\$388,815.00
Joseph A. Garofolo:	434.2 hours at \$450/hour	\$195,390.00
Jon F. Doyle:	48.2 hours at \$475/hour	\$ 22,895.00
Benjamin P. Quest:	190.2 hours at \$200/hour	\$ 38,040.00
ELP - Expenses recoverable under ERISA § 502(g):		\$ 2,722.67
Romano - Expenses recoverable under ERISA § 502(g):		<u>\$ 20,079.21</u>
TOTAL ATTORNEYS' FEES AND EXPENSES		\$667,941.88

Plaintiffs apologize to the Court and the parties for any inconvenience that may have been caused by the aforementioned errors.

Respectfully Submitted,
Plaintiffs,
By Counsel,

/s/ Michael J. Romano
Michael J. Romano
W. Va. State Bar ID No. 6952
128 S. Second Street
Clarksburg, WV 26301
(304) 624-1100

/s/ Joseph A. Garofolo
Joseph A. Garofolo (admitted pro hac vice)
ERISA Law Partners, LLP
22 Battery Street, Suite 1000
San Francisco, CA 94111
(415) 981-8700

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA CLARKSBURG**

MARKS CONSTRUCTION CO., INC.
a West Virginia Corporation, on behalf
of the Marks Construction Co., Inc. 401(k)
Profit Sharing Plan
and
JAMES MARKS, KAREN MARKS,
ANGELA DAVIS, and RICHARD STRAIGHT,
all individual participants thereunder,

Plaintiffs,

v.

Civil Action No. 1:05CV73

THE HUNTINGTON NATIONAL BANK and
SHARON HUGHES,

Defendants.

CERTIFICATE OF SERVICE

I, Michael J. Romano, do hereby certify that on the 24th day of November, 2009, I filed
“NOTICE OF ERRATA” with this Certificate of Service with the Clerk of the Court using the
CM/ECF system, which will send notification of such filing to the following:

Sarah E. Hauptfuehrer, Esq.
(WV Bar #2049)
Steptoe & Johnson
Post Office Box 2190
Clarksburg, WV 26302
Facsimile No. 304-624-8183
Telephone No. 304-624-8100

John R. Callcott, Esq.
(WV Bar #9206)
Deva A. Solomon
(WV Bar #10843)
Steptoe & Johnson
United Center, Suite 400
PO Box 1616
Morgantown, WV 26505
Facsimile No. 304-598-8116
Telephone No. 304-598-8000

/s/ Michael J. Romano
Michael J. Romano, WV Bar #6952